



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,574	10/17/2000	Mike Daily	HRL048	3531
28848	7590	08/22/2012	EXAMINER	
TOPE-MCKAY & ASSOCIATES			FERGUSON, KEITH	
30765 PACIFIC COAST HIGHWAY #420				
MALIBU, CA 90265			ART UNIT	PAPER NUMBER
			2618	
			NOTIFICATION DATE	DELIVERY MODE
			08/22/2012	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

officeactions@topemckay.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MIKE DAILY, KEVIN MARTIN, and
TIMOTHY DAVID HIRZEL

Appeal 2012-000330
Application 09/690,574
Technology Center 2600

Before JOSEPH F. RUGGIERO, JOHN A. JEFFERY, and
JEREMY J. CURCURI, *Administrative Patent Judges*.

CURCURI, *Administrative Patent Judge*.

DECISION ON APPEAL

SUMMARY

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 2-8, 11-13, 15-20, 23-25, 28-33, and 37-40. Claims 9, 10, 21, 22, 34, and 42-64 have been indicated as containing allowable subject matter, and claims 1, 14, 26, 27, 35, and 36 have been cancelled.¹ We have jurisdiction under 35 U.S.C. § 6(b).

Claims 2-5, 8, 11-13, 15-17, 20, 23-25, 28-31, 33, and 37-39 are rejected under 35 U.S.C. § 102(e) as anticipated by Chern (US 2003/0060211 A1; published Mar. 27, 2003; filed Aug. 27, 1999).

Claims 6, 7, 18, 19, 32, and 40 are rejected under 35 U.S.C. § 103(a) as obvious over Chern in view of Dahlén (US 5,870,454; issued Feb. 9, 1999).

We affirm-in-part.

STATEMENT OF CASE

Appellants' invention relates to “[a] system . . . for receiving, categorically storing, and supplying different types of location-specific audio information to either fixed or mobile users.” (Abstract). Claim 2 is illustrative and reproduced below with the key disputed limitation emphasized:

2. An audio information transmission device comprising:
a user interface, a position detection system, an information server, and a playback manager, wherein,

¹ Although Appellants indicate that claim 27 is patentable by virtue of its dependency (App. Br. 2; Reply Br. 2), Appellants nonetheless indicate that claim 27 is cancelled in the Claims Appendix. In any event, the Examiner did not reject this claim.

the user interface provides a user with an ability to submit queries to a database, and further provides location-specific information back to the user;

the position detection system is comprised of a variety of complementary devices that provide user position data to assist with the user-generated queries;

the information server provides a means for communicating the queries and the position data to the database, and further provides a means for communicating references to the playback manager; and

the playback manager provides a means for delivering location-specific information to the user interface, wherein

said position detection system further provides orientation data to assist with user-generated queries.

CONTENTIONS²

The Examiner finds that Chern discloses all recited limitations of claim 2 including “orientation data” which the Examiner maps to location/positioning data, latitude/longitude data, from a constellation of satellites. (Ans. 5, 10 (citing paragraphs 0040, 0084, and 0085)).

Appellants argue that “Chern . . . does not teach, disclose, or suggest ‘orientation data’ as is claimed,” that “position data is not the same thing as orientation data,” and that “[t]here is no mechanism of the GPS satellites to provide orientation data.” (App. Br. 6-8, 14; Reply Br. 3-4).

The Examiner finds that Chern discloses the additional recited features of claim 4 at paragraphs 0040, 0063-0065, 0084, and 0085. (Ans. 7, 10). Appellants argue that “Chern . . . does not teach, disclose, or suggest

² Rather than repeat the Examiner’s positions and Appellants’ arguments in their entirety, we refer to the following documents for their respective details; the Appeal Brief (App. Br.) filed Aug. 10, 2009, the Examiner’s Answer (Ans.) mailed May 26, 2011 and the Reply Brief (Reply Br.) filed July 14, 2011.

‘said location-specific information is spatially enhanced based on the user position and orientation data to appear to be coming from a location or object with which the information is associated’ as is claimed in Claim 4,” and that Chern’s paragraphs 0063, 0064, and 0065 only describe location-based driving directions. (App. Br. 9-10; Reply Br. 4-5).

The Examiner finds that Chern discloses the additional recited features of claim 13 at paragraphs 0044, and 0062-0065. (Ans. 7, 11). Appellants argue that “Chern . . . does not teach, disclose or suggest an audio transmission device configured to ‘provide location-specific information based on an expected user destination determined from the user orientation data,’ as is claimed in Claim 13,” and that Chern’s paragraphs 0063, 0064, and 0065 only describe location-based driving directions. (App. Br. 11-12). Appellants further argue, “Chern . . . teaches that the user destination is determined from user input” in contrast to claim 13. (Reply Br. 6)

ISSUES

I. Under 35 U.S.C. § 102, has the Examiner erred by finding that Chern discloses “said position detection system further provides orientation data to assist with user-generated queries” as recited in claim 2?

II. Under 35 U.S.C. § 102, has the Examiner erred by finding that Chern discloses “said location-specific information is spatially enhanced based on the user position and orientation data to appear to be coming from a location or object with which the information is associated” as recited in claim 4?

III. Under 35 U.S.C. § 102, has the Examiner erred by finding that Chern discloses “provide location-specific information based on an expected user destination determined from the user orientation data” as recited in claim 13?

ANALYSIS

I.

This issue turns on one question: What is orientation data? Since the Examiner and Appellants reach different conclusions regarding the answer to this question, we begin by construing the term “orientation data.”

Appellants’ Specification does not define the term “orientation data,” but does indicate “querying [of information server 100] can be achieved with the aid of a body-worn device *such as a compass that transmits the orientation* of the user to the information server **100**.” (Spec. 8:5-7) (Emphasis added.). The term “orientation data” is not limited to direction as Appellants argue. (App. Br. 6-8, Reply Br. 3-4). Consistent with the disclosure, a broad, but reasonable construction of “orientation data” includes latitude data *or* longitude data. Latitude data provides an orientation or determinate position with respect to a reference latitude such as 0 degrees latitude, while longitude data provides an orientation or determinate position with respect to a reference longitude such as 0 degrees longitude. This construction comports with the plain meaning of the term “orientation” and the plain meaning of the term “orient” as proposed by Appellants. (App. Br. 7, Appendix B-3, Appendix B-4).

With this construction, we see no error in the Examiner’s reliance on Chern for disclosing “orientation data.” As the Examiner explains, “Chen [sic] teaches a GPS system that provides orientation data (i.e.

location/positioning data, latitude/longitude data, from a constellation of satellites) to assist with user-generated queries (paragraphs 0040,[]0084 and paragraph 0085).” (Ans. 10). Chern, in Figure 6, shows the location information response 408 including longitude 412, latitude 414, and additional fields. By providing longitude 412 or latitude 414, the GPS system provides orientation data. By providing additional data in the location information response 408, Chern provides position data in addition to the orientation data.

We are therefore not persuaded that the Examiner erred in rejecting claim 2, as well as claims 3, 5, 8, 11, and 12 which are not argued separately. We are also not persuaded that the Examiner erred in rejecting independent claims 15, 28, and 37, which recite similar language as recited in claim 2, as well as claims 17, 20, 23, 25, 31, 33, and 39 which are not argued separately.

We likewise sustain the Examiner's obviousness rejection of claims 6, 7, 18, 19, 32, and 40 over Chern in view of Dahlén. Appellants have not particularly pointed out errors in the Examiner's reasoning regarding the additional teachings of Dahlén, but merely reiterate the same arguments regarding the alleged deficiencies of Chern (App. Br. 30-31).

II.

Regarding claim 4, the Examiner cites Chern's location-based driving directions as teaching “location-specific information is spatially enhanced based on the user position and orientation data to appear to be coming from a location or object with which the information is associated.” (Ans. 7, 10).

The Examiner states

Che[r]n teaches “location base[d] driving direction information” (location specific information) is related to a user position by its positioning determination system (i.e. GPS) (P:0040 and P:0044 lines 5-12) and orientated data (i.e. a rout[e] and/or driving directions from a starting point) is provided by a remote server 136 (location or object) which may be displayed or audibly render[ed] to the user (P:0044 lines 5-12 and paragraph 0063 through paragraph 0065).

(Ans. 10).

The Examiner, however, does not clearly map or explain how Chern describes location-specific information *being spatially enhanced*, or map or explain how Chern describes the location-specific information *appears to be coming from a location or object with which the information is associated*.

Because the Examiner does not clearly map or explain how Chern meets the argued limitations of claim 4, we are persuaded that the Examiner has erred in rejecting claim 4. We are also persuaded that the Examiner erred in rejecting claims 16, 30, and 38, which recite similar language as recited in claim 4.

III.

The Examiner cites Chern’s location-based driving directions as teaching “provide location specific information based on an expected user destination determined from the user orientation data.” (Ans. 7, 11).

The Examiner states,

Che[r]n teaches “location base[d] driving direction information” (location specific information) is related to a user position by its positioning determination system (i.e. GPS) (P:0040 and P:0044 lines 5-12) and orientated data (i.e. a rout[e] and/or driving directions from a starting point) is provided by a remote server 136 (location or object) which may be displayed or audibly render[ed] to the user (P:0044 lines 5-12 and paragraph 0063 through paragraph 0065). For

example, driving direction to a destination address is presented to the handset via audibly rendered via speech synthesis or prerecorded scripts to the user of the handset (P:0044 lines 1-12 and P:0062 through P:0065 line 15). Chern further teaches based upon the handset location or starting city and the handset final destination city the server could calculate “a route and compile driving direction the shortest possible route or the safest route” (i.e. location specific information) to be presented to the handset (paragraph 0063 through paragraph 0065).

(Ans. 11).

The Examiner does not clearly map or explain how Chern describes the expected user destination *being determined from the user orientation data*. Chern describes, at paragraph 0044, the destination is entered via keyboard or voice command.

Because the Examiner does not clearly map or explain how Chern meets the argued limitations of claim 13, we are persuaded that the Examiner has erred in rejecting claim 13. We are also persuaded that the Examiner erred in rejecting claims 24 and 29, which recite similar language as recited in claim 13.

DECISION

The Examiner’s decision rejecting claims 2, 3, 5-8, 11, 12, 15, 17-20, 23, 25, 28, 31-33, 37, 39, and 40 is affirmed.

The Examiner’s decision rejecting claims 4, 13, 16, 24, 29, 30, and 38 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2010).

Appeal 2012-000330
Application 09/690,574

AFFIRMED-IN-PART

gvw